

FILED**United States District Court** MAY 30 2006MIDDLE

DISTRICT OF

ALABAMA

CLERK

U. S. DISTRICT COURT
MIDDLE DIST. OF ALA**UNITED STATES OF AMERICA****CRIMINAL COMPLAINT**

v.

CASE NUMBER: 3:06 mj-50-CSC**JEFFREY D. COSBY**

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about May 3, 2006 in Tallapoosa county, in the Middle District of Alabama defendant(s) , (Track Statutory Language of Offense)

being a person who uses, persuades, induces and entices a minor to engage in any sexually explicit conduct for the purpose of producing a visual depiction of such conduct, knowing or having reason to believe that such visual depiction will be transported in interstate and foreign commerce and mailed and that that visual depiction was produced using materials that have been shipped, mailed and transported in interstate and foreign commerce, by any means, including by computer.

in violation of Title 18 United States Code, Section(s) 2251(a).

I further state that I am a(n) Postal Inspector and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No


Signature of Complainant

Sworn to before me and subscribed in my presence,

May 30, 2006at Montgomery, Alabama

Date

City and State

CHARLES S. COODY, U.S. Magistrate Judge

Name and Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT

I, Jeffrey L. Arney, being first duly sworn, hereby depose and state as follows:

INTRODUCTION

1. I, Jeffrey L. Arney, am an Inspector with the United States Postal Inspection Service assigned to the Atlanta Division, domiciled in Birmingham, Alabama. I have been so employed since August, 2004. Prior to my appointment as a Postal Inspector, I was employed as a detective with the Greensboro (NC) Police Department for over thirteen years. During a part of my tenure with the Greensboro (NC) Police Department, I was assigned to the Child Victim Unit and was responsible for the investigation of physical child abuse, child neglect and the sexual exploitation of children.

2. As a United States Postal Inspector, I am currently responsible for the investigation of Federal offenses involving any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, and such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed in violation of Title 18 US Code, Section 2251(a). I have received training in how to conduct investigations of offenses relating to child pornography and the sexual exploitation of minors, as well as specialized instruction on how to conduct investigations of offenses relating to child sexual exploitation and child pornography that involve use of the United States Mails and the use of computers in interstate commerce. The specialized training I have received also includes various courses on the recovery of digital evidence located on computers and other similar electronic data storage devices, the exploitation of children involving the use of the Internet, and the behavioral analysis on the child sex offender.

3. I have probable cause to believe that a violation of Title 18, United States Code, Section 2251(a), involving a person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, and such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed, has been effected by Jeffrey Douglas Cosby.

4. On November 8, 2005, Lt. William J. Hough of the Tallapoosa County (AL) Sheriff's Department established an undercover identity as a purported 14-year-old female child named "Kathy Montgomery" with the screen name of "SthNBelle," and began operating in an undercover capacity in

an Instant Relay Chat (IRC) environment.¹ Upon entering a channel entitled “#FamilySex,” Lt. Hough, operating in an undercover capacity, was contacted by an individual with the screen name of “AaCupLuvr.” This subject introduced himself in the following communication with “SthNBelle” on November 8, 2005:

<AaCupLuvr> hi there kathy
 <SthNBelle> hi
 <AaCupLuvr> jeff from indiana here

5. During the same communication on November 8, 2005, “AaCupLuvr” indicated the user of this screen name as “m/40s” suggesting a male with an age of 40 to 50 years old. “AaCupLuvr” was also provided with the age of the purported minor female child as 14 years old. The user of “AaCupLuvr” stated he lived in Indianapolis, Indiana and had an email address of “gentleguy41@hotmail.com.”

6. On December 5, 2005, during an IRC communication between himself and Lt. Hough, operating in an undercover capacity, the user of “AaCupLuvr” described himself as 5’ 8”, 165 pounds, with a shaved head, grayish mustache, and brown eyes.

7. Through additional IRC communication with Lt. Hough, operating in an undercover capacity, the user of “AaCupLuvr,” acknowledged the age of the purported minor as 14 years old, and discussed the idea of traveling to Alabama to meet with the purported 14-year-old minor female child to engage in sexually activity. “AaCupLuvr” also requested photographs of the purported minor female. Based on this request, “AaCupLuvr” was sent, via email, photographs of a law enforcement officer taken at the time she was approximately 14 years old. Upon receiving these photographs, “AaCupLuvr” told the purported 14-year-old minor female she could take “some sexier pics” and the photographs could be “anywhere from fully clothed to naked.” The user of “AaCupLuvr” suggested the purported minor “borrow a digital camera from a friend” and offered to send a “webcam” to have “private videochats together.”² During the discussion of a camera, the user of “AaCupLuvr” questioned the purported minor regarding “a place to hide them (the camera and pornographic DVDs).”

8. On January 11, 2006, during an IRC communication with Lt. Hough, operating in an undercover capacity, the user of “AaCupLuvr” stated “i’d love to make a porno with you :).”

1

The Instant Relay Chat (IRC) program is an Internet-based communications system that permits people from across the world to hold real-time text-based conversations online. This system consists of software on the user’s computer, called client software, and one or more large central computers, called “servers,” that facilitate the exchange of data between the participating clients. IRC areas are divided into named “channels,” which are often based around a specific subject or area of interest. A channel is an area within the IRC communications where multiple individuals can communicate with one another, allowing others in the same channel to view and participate in the conversations.

2

A web camera (or webcam) is a real-time camera whose images can be accessed using the World Wide Web, instant messaging, or a computer video calling application. Web-accessible cameras typically involve a digital camera which uploads images to a web server, either continuously or at regular intervals. This may be achieved by a camera attached to a computer, or by dedicated hardware. Videoconferencing cameras typically take the form of a small camera connected directly to a computer.

9. On January 27, 2006, Lt. Hough was using Yahoo! Messenger, an instant messaging or Internet-based communication environment, as "kathm256," and was involved in a conversation with "J Cos," who identified himself as "Jeff (aacupluvr)" in previous correspondence in this environment, and the following communication occurred:

J Cos: if I sent you a webcam would you get to keep it?
 kathm256: yea probably
 J Cos: I could do that and make it look like u won it in a contest
 kathm256: y
 kathm256: really how
 J Cos: i'll write a letter to make it look official
 kathm256: kewl
 J Cos: saying that you won it online
 kathm256:
 J Cos: do you really think that they'd let u hook it up?
 kathm256: yea
 kathm256: there pretty ok with some things
 J Cos: ok, then I'll buy one and send it to you. I'll look this weekend for a good deal
 kathm256: really
 J Cos: yes 4real
 kathm256: k
 J Cos: would u be embarrassed touching or showing on it?

The conversation continued and resulted in the following communication:

J Cos: when you get your webcam u can show me your vagina too
 kathm256:
 J Cos: I want to see your clit and everything

10. On March 21, 2006, Lt. Hough, continuing to operate within the Yahoo! Messenger environment, was communicating with "nautyguyxoxo", known to him as the same subject identified as "AaCupLuvr" and "J Cos," and received the following statements during the communication:

"i've decided that i'll get that webcam and send it to u tomorrow"
 "then we might be able to do a mutual webcam on Friday ok?"
 "well it's up to you. we can just do regular face to face vidchat or get sexy too."

When asked "what kind of sexy," the following response was received:

"showing and touching for each other"

When asked "what all r we gonna do," the following responses were received:

"well we can start by just talking and seeing each other regular:
 "then maybe we'll take off our clothes down to underwear"
 "then we can maybe start to touch like underneath
 "then maybe we can take off the underwear and show"

“me show u my penis and u show me your boobs and vagina”

During the same conversation, the user of “nautyguyxoxo” made the following statements:

“i’m really gonna try to go out after our chat and see if I can get u one”

“i’m going to put a letter in it to make it look like u won it in a contest so in case your mom or dad finds out, u can show them the letter”

11. On March 22, 2006, the following email communication was received by Lt. Hough through his undercover email account for the purported 14-year-old minor female child from gentleguy41@hotmail.com:

I sent it today (wed) via 2 day priority mail, so it should be to you
on
Friday.

kisssssssssssssss,

Jeff

12. On March 24, 2006, a brown cardboard box, postmarked on March 22, 2006 from Indianapolis, IN was delivered Priority Mail, through the US Mail, to an undercover address in Dadeville, AL for “Kathy Montgomery.” The return address on the box was Contest Fulfillment Department, 3821 Industrial Blvd., Indianapolis, IN 46254-2507. The contents of the box consisted of a GE Easycam computer camera and a typed letter, addressed to “Kathy Montgomery,” indicating the camera was mailed as a result of winning a contest.

13. Through continued communication by email and instant messaging in the Yahoo! or IRC environments, the subject identifying himself as “Jeff,” continued to question the purported 14-year-old minor female child about the receipt and use of the web camera he sent through the US Mail.

14. On January 5, 2006, Lt. Hough had obtained and served a subpoena for subscriber information relating to a telephone number he received in an email from gentleguy41@hotmail.com on December 21, 2005, delivered to the undercover account of the purported 14-year-old minor female child. The user of gentleguy41@hotmail.com provided a cellular telephone number of (317) 919-0485 for the purported minor to contact him. The service of the court order resulted in the return of information indicating the subscriber of cellular telephone number (317) 919-0485 was the following:

Financially Liable Party:	Spotlight Publishing, Inc.
Billing Party:	Spotlight Publishing, Inc.
User Information:	Jeff Cosby
Address:	4217 S. Meridian St. Indianapolis, IN 46217

Queries performed of various law enforcement and public databases provided information that this address was previously shared by Jerry and Carol Cosby with Jeffrey D. Cosby. In addition, Spotlight Publishing, Inc. is owned and operated by Jerry and Carol Cosby. Queries of the various law enforcement and public databases for Jeffrey D. Cosby, previously residing at the same address,

revealed the following:

Full Name: Jeffrey D. Cosby
 DOB: 02/20/1956
 Current Address: 3717 Rome Terrace
 Indianapolis, IN 46228-6720
 Telephone: (317) 347-0494

From the query of a law enforcement database, a photograph of Jeffrey D. Cosby was obtained, which was consistent with the description he provided of himself to Lt. Hough in a previous communication as mentioned in paragraph 6. The physical height, weight, and eye color description Cosby provided was consistent with a recorded physical description of the same attributes in different law enforcement database.

15. From an email received by Lt. Hough on May 3, 2006 from gentleguy41@hotmail.com, the user of this email address was determined to be connected to the Internet through an Internet Protocol (IP) Address of 69.217.75.130.³ Using this numeric IP Address, the Internet Service Provider (ISP) used by gentleguy41@hotmail.com was identified as R. Falcone Automotive Inc., a car dealership located in the Indianapolis, IN area.⁴ Businesses such as R. Falcone Automotive, through the use of an ISP, can provide its employees the ability to connect to the Internet and other capabilities, such as the use of email programs.

16. On May 24, 2006, Postal Inspector Dianne Petry was able to identify Jeffrey D. Cosby as an employee of R. Falcone Automotive, Inc. Postal Inspector Petry also confirmed Cosby resides at 3717 Rome Terrace, Indianapolis, IN 46228-6720. During a previous communication with the Cosby, Lt. Hough obtained information the Cosby was employed as a car salesman.

17. Based on the information above, I have probable cause to believe that a violation of Title 18, United States Code, Section 2251(a), involving a person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, and such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign

3

The Internet Protocol address (or simply "IP" address) is a unique numeric address used by computers on the Internet. No two computers on the Internet will have the same IP address at the same time. An IP address looks like a series of four numbers, each in the range of 0-255, separated by periods (e.g., 121.56.97.178). Every computer attached to the Internet must be assigned an IP address so that Internet traffic sent from and directed to that computer may be directed properly from its source to its destination. Most Internet Service Providers control a range of IP addresses which are distributed or assigned individually for a period time often called a "lease".

4

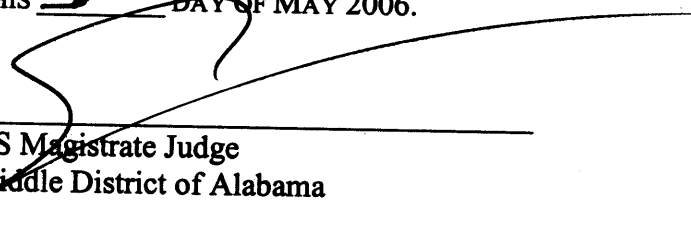
Internet Service Providers (ISPs) provide their customers with access to the Internet using telephone or other telecommunications lines; provide Internet e-mail accounts that allow users to communicate with other Internet users by sending and receiving electronic messages through the ISPs' servers; remotely store electronic files on their customers' behalf; and may provide other services unique to each particular ISP.

commerce by any means, including by computer, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed has been violated by Jeffrey Douglas Cosby.



Jeffrey L. Arney
United States Postal Inspector

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 30 DAY OF MAY 2006.



US Magistrate Judge
Middle District of Alabama